



**Report of the Independent Commission to Review
Members' Indemnities, Allowances, Expenses and Benefits**

March 2019

**The Honourable Justice Earl D. Johnson, Chairperson
Mr. Ronnie Campbell
Ms. Nancy Karetak-Lindell
Mr. Keith Peterson**

Summary and Recommendations

The Commission was appointed by Speaker Joe Enook on September 24, 2018, and directed to consider and review Members' compensation in accordance with the scope of the work set out in Appendix A. the Commission is composed of Mr. Justice Earl D. Johnson (Chairperson), Ms. Nancy Karetak-Lindell, Mr. Keith Peterson and Mr. Ronnie Campbell (Commissioners).

The Commission met once in Ottawa for two days in October 2018 and for two days in Iqaluit in January 2019.

There were no responses from the general public to the advertisement inviting submissions by January 25, 2019.

The Commission makes the following recommendations:

1. The Commission recommends that the present provision in section 35 of the *Legislative Assembly and Executive Council Act* (the *Act*), regarding cost of living increases to the rates of pay of employees referred to in paragraph 55(5)(a) of the *Public Service Act*, be continued for the indemnities of Members.
2. The Commission recommends that the current basic indemnity paid to all Members should remain the same. However, as set out below in recommendation number 4, the current constituency allowance paid to Members under subsection 31(1)(a) of the *Act* should be rolled into the basic indemnity with income tax deducted.
3. The Commission recommends that there should no change to the additional indemnity paid to the Premier, Deputy Premier, Ministers, Speaker, Deputy Speaker, Deputy Chairpersons of the Committee of the Whole, Chairpersons of Standing and Special Committees and Chairpersons of Caucus and Regular Members' Caucus. However, as discussed in section 10 below, we recommend that the responsibility for setting Ministerial benefits and allowances be transferred to the Management and Services Board (MSB).
4. The Commission recommends that the current constituency allowance paid under subsection 31(1)(a) of the *Act* should be uncoupled from the GN duty travel (GNDT) per diems and should no longer be referred to as an allowance. It should be rolled into the basic indemnity with income tax deducted and called a constituency work benefit. The Assembly may wish to consider whether it wishes to gross up the basic indemnity to take into account the impact of income tax on the constituency work benefit.
5. The Commission recommends no change to the Nunavut Northern Allowance.
6. The Commission recommends no change to the Household Allowance.

7. The Commission recommends that section 16 of the *Supplementary Retiring Allowances Act* (SRAA) be repealed to remove the Fixed-Term Allowance (FTA).

8. The Commission also recommends that the 60-day time limit set out in section 10 of the SRAA to make an election to participate in the pension plan should be repealed.

9. (a) The Commission believes that the current formula for calculating the transitional allowance is satisfactory and recommends it remain the same.

(b) The MSB currently encourages and facilitates Members to meet with the pension actuaries prior to leaving the Assembly. In addition to encouraging Members to seek out financial planning assistance and access to GN retirement courses or courses in southern Canada, the MSB should actively organize its own courses from time to time and strongly encourage Members to attend.

(c) The Commission is aware that, despite the payment of the current transitional allowance, some Members are not prepared for life after politics, particularly if they are defeated in an election. All Members, particularly those Members contemplating retirement, should be encouraged to develop an exit strategy that would cover this information along with any other relevant information that will support the Members in their move from public to private life.

10. (a) The Commission makes no recommendations on the content or administration of the allowances, expenses and benefits paid to members of the Executive Council under subsection 33.1(2) of the *Act*. However, to provide the public with the maximum transparency on Ministerial benefits, the Commission recommends that responsibility for the administration of sections 4, 5 and 6 of the *Ministerial Procedures Manual* (MPM) be transferred from the Office of the Premier to the MSB.

(b) The Commission further recommends that the Assembly consider an amendment to section 38(1) of the *Act* to change the composition of the MSB from its current form to two Ministers and two Members with the Speaker as Chairperson. The NWT implemented this amendment when it transferred responsibility for Ministerial benefits to its MSB.

11. (a) The Commission endorses the Assembly taking a similar approach to that taken by the Government of Canada, where possible, to make the work of Members more family-friendly.

(b) The GN policy on child care is that an employee can claim, with backup receipts, up to \$45 per day when on duty travel. The Commission recommends that the Assembly adopt a similar policy. In addition, the Assembly may consider providing enhanced temporary accommodation and laundry services.

(c) The Commission recommends that the development and implementation of these types of family-friendly policies be carried out by MSB and that care be taken that the policies do not exceed the benefits provided by the GN or the private sector.

12. The Commission recommends that the Assembly take the same approach to transparency as that recommended at pages 18 and 19 of the 2018 NWT report on Members' compensation. The changes recommended about constituency allowances, Members representing Iqaluit constituencies, Members representing non-Iqaluit constituencies who declare the capital to be their place of residence for such purposes as the payment of the Nunavut Northern Allowance, and the transfer of responsibility for the MPM are consistent with more transparency because it allows the public to see the full level of compensation paid to Members.

13. The Commission recommends that section 28(1) of the *Act* that authorizes the payment of GNDT per diems to Iqaluit Members be removed from the *Act*.

14. (a) Although the Commission recognizes that Ministers spend more time away from their home communities and need more travel entitlements, it believes that the current system is a little unfair to Regular MLAs. They should receive a minimum of 3 additional trips per Session and this should be done in a cost-neutral manner by reducing the number of Ministerial travel entitlements available per year or removing the Regular MLA entitlements from Ministers who already have access to Ministerial travel entitlements or both.

(b) The Commission also believes that it is important to have the entire travel budget under one roof to provide maximum flexibility. That would permit the MSB to create new policies to set up a system of travel points that is similar to the system administered by the Board of Internal Economy for Members of Parliament.

1.0 Legislation, Commissioners and Terms of Reference

1.1 Section 37 of the *Act* authorizes the Speaker of the Legislative Assembly to establish, after consultation with the Management and Services Board, an independent commission to review and make recommendations regarding the indemnities, allowances, expenses and benefits that are paid to members of the Legislative Assembly. After the creation of Nunavut, the first Commission submitted a report dated March 27, 2009, which was tabled in the Legislative Assembly on December 8, 2009. On September 24, 2018, the Honourable Joe Enook announced the appointments of four persons to the second Independent Commission to Review Members' Indemnities, Allowances, Expenses and Benefits (ICRMIAEB).

1.2 Commission Members

The Chairperson of the Commission is the Honourable Mr. Justice Earl D. Johnson. Justice Johnson's legal career in the North began in 1974. He was appointed Queen's Counsel in 1992 and sat on the Nunavut Court of Justice from 2002 until his retirement from full-time service in 2015. He has been a Deputy Judge of the Nunavut Court of Justice since December 2016.

The other Commissioners are Ms. Nancy Karetak-Lindell, Mr. Keith Peterson and Mr. Ronnie Campbell.

Ms. Nancy Karetak-Lindell served as Nunavut's Member of Parliament from 1997 to 2008 and as President of the Inuit Circumpolar Council (Canada) from 2016 to 2018. Ms. Karetak-Lindell has held a number of management-level positions in the community of Arviat, while also serving the community in a variety of roles. Ms. Karetak-Lindell currently serves as a Member of the Board of Directors of Polar Knowledge Canada.

Mr. Keith Peterson served as Cambridge Bay's Member of the Legislative Assembly from 2004 until his retirement in 2017. Mr. Peterson holds the distinction of being Nunavut's longest-serving Minister of Finance. He also held a number of other Ministerial portfolios during his tenure, including responsibility for Health, Justice and Democratic Institutions. Prior to being elected to the Legislative Assembly, Mr. Peterson held office as Mayor of Cambridge Bay and was the Secretary-Treasurer of the Kitikmeot Corporation.

Mr. Ronnie Campbell served as an Assistant Auditor General of Canada from 2003 until his retirement in 2015. In this capacity, he was responsible for the Office's audits of the Government of Nunavut. Prior to joining the Office of the Auditor General in 1985, Mr. Campbell lived and worked in a number of Nunavut communities as a manager with the Hudson's Bay Company. Mr. Campbell currently serves as a Member of the Board of Directors of the Qulliq Energy Corporation.

1.3 Terms of Reference

The Commission's Terms of Reference are attached as Appendix A.

The scope of the work of the commission was to make recommendations on the following topics:

- (a) Indemnities paid to Members of the Legislative Assembly and office-holders under Schedule C of the *Act*;
- (b) Taxable and Non-Taxable Allowances, including Constituency Allowances, Living Allowances, Nunavut Northern Allowance and Housing Allowance;
- (c) Retiring Allowances;
- (d) Transitional Allowances;
- (e) Allowances, expenses and benefits paid to members of the Executive Council under subsection 33.1(2) of the *Act*; and
- (f) Other remuneration and entitlements for Members;
- (g) Practical and cost-effective ways to support the work of Members who are expectant mothers or who are raising young children in respect to such areas as child care and parental leave;
- (h) The impact on Members' remuneration of recent changes to federal income tax legislation that were provided for in Bill C-63, which received Royal Assent on December 14, 2017;
- (i) The adequacy of public reporting and disclosure of Members' indemnities, allowances, expenses and benefits;
- (j) The advisability of replacing the constituency living allowance currently paid to Members under subsection 31(3) of the *Act* with a higher base rate of remuneration;
- (k) The appropriateness of paying living allowances to Members resident in the capital; and
- (l) The advisability of replacing the statutorily-prescribed travel entitlements under section 30 of the *Act* with a Management and Services Board-administered system of travel points that is analogous to that which is provided to Members of Parliament under the authority of the Board of Internal Economy of the House of Commons.

2.0 Review Process

On October 2 and 4, 2018, the Chairperson met with John Quirke, Clerk of the Legislative Assembly, Alex Baldwin, Director of Research, Policy and Library Services, and Marc Rose, Director of Corporate Services, at the Legislative Assembly Precinct in Iqaluit for a briefing. The Chairperson was provided with a large binder of relevant documentation.

The Chairperson sent a letter to all Members of the Legislative Assembly dated October 2, 2018, which enclosed the Commission's Terms of Reference and which requested their comments by January 25, 2019. The staff of the Assembly also placed advertisements in the local news media requesting public input by January 25, 2019 (included as part of Appendix A). The letter is attached as part of Appendix B.

With the assistance of the staff of the Legislative Assembly, the Chairperson arranged for the first meeting of the Commission on October 17 and 18, 2018. The Commission reached agreement on how to carry out the scope of the work and made a number of preliminary decisions so that the Chairperson could start drafting the initial report. Commissioners were given assignments to research different parts of the terms of reference and a second meeting was held on January 6 and 7, 2019. Unfortunately, Commissioner Karetak-Lindell experienced some health problems, and was unable to attend the meeting in Iqaluit. She later tendered her resignation and the Commission finished its work with the other three Commissioners.

Among these assignments was making personal contacts with many Members. See Appendix B for the list of Members contacted.

There were no submissions received from the general public in response to the advertisements.

The Commission was fortunate in having the benefit of the February 2018 Report of the Yukon Commission and the October 2018 Report of the NWT Commission to draw from for very useful background information. The Commission also examined the July 2017 reports from Manitoba and Prince Edward Island, but was satisfied that the best comparators were the Yukon and NWT Reports. They both contained charts with comparative information from all the provinces and territories. The written materials provided to the Commission by the Office of the Clerk of the Legislative Assembly also contained an April 2018 interjurisdictional comparison which listed the compensation paid to members of the territorial, provincial and federal legislatures, as well as Cabinet Ministers and other officers of the Legislatures. Attached as Appendix C is that document.

The Commission also received helpful comments from the Clerk of the Legislative Assembly and his staff. Following the January meeting in Iqaluit, the Chairperson continued drafting the report and it was submitted to the Clerk prior to the March 31 deadline for tabling at the next sitting of the Legislative Assembly.

3.0 Current Indemnities paid to Members of the Legislative Assembly and Office-Holders under Schedule C of the Act

Member's Basic Annual Indemnity: \$103,323

Additional Indemnities

Premier:	\$ 95,198
Deputy Premier:	\$ 87,665
Minister:	\$ 80,134
Speaker:	\$ 80,134
Deputy Speaker:	\$ 20,665
Deputy Chairperson of the Committee of the Whole:	\$ 5,421
Chairperson of a Standing or Special Committee:	\$ 4,669
Chairperson of Full Caucus or regular Members' Caucus:	\$ 3,163

3.1 History of Creation of Westminster Model of Responsible Government in Yukon, Northwest Territories and Nunavut

As explained at paras 18 and 19 of *NTI v. Canada (A.G.)*, 2008 NUCJ 11 (CanLII), responsible government evolved in the Yukon and NWT as a result of a number of letters from the Minister of Indian Affairs and Northern Development (DIAND Minister) to the Commissioners of both Territories.

On October 9, 1979, the DIAND Minister instructed the Commissioner Lone Christensen to accept the advice of the elected Council in all matters that were delegated to the Commissioner in Council under the Yukon Act. By giving these instructions, the DIAND Minister transformed the Commissioner into the role of a de facto Lieutenant-Governor for the Yukon. The letter authorized the government leader to refer to himself as "Premier" and his cabinet members as "Ministers". Similar instructions were given to the Commissioner of the NWT and responsible government was achieved in 1984 when the Commissioner gave up responsibility for the public service to an elected Minister.

On May 25, 1993, the Inuit then residing to the east of the tree line of the NWT entered into the Nunavut Land Claims Agreement (NLCA) with Canada. The NLCA identified the geographical area of the NWT inhabited by these Inuit as the Nunavut Settlement Area. On April 1, 1999, this area became the Territory of Nunavut, pursuant to the *Nunavut Act*, S.C. 1993, c. 28. Unlike the Yukon and NWT the creation of Nunavut led to instant responsible government shortly after the territory came into existence on April 1, 1999. Nunavut acquired the same constitutional status as the NWT and all the legislation in force in the NWT became the legislation of Nunavut until changed by the Legislative Assembly of Nunavut.

3.2 Public Service Collective Bargaining In North

Collective bargaining began in the NWT in 1969 when legislation was passed granting the Northwest Territories Public Service Association the right to collectively bargain for the NWT public service. Collective bargaining for Yukon public servants started in 1971.

The Nunavut Employees Union officially came into existence on April 1, 1999, upon the creation of Nunavut and acquired the right to bargain collectively for the employees of the GN. The initial collective bargaining agreements set the base for northern salaries that were higher than in the south because of the higher cost of living and the need to attract people to the north at a time that it was relatively isolated.

The subsequent collective agreements ensured that the salaries kept pace with the south and inflation. Although the 2007 Yukon report expressed the view that it was not advisable to link the salaries of the members to that of public servants, the 2018 report stated that:

“... the reality is that MLA pay can never be ignored when actions are taken respecting the remuneration of public servants.”

The initial starting point for setting the indemnities of members was public service salaries as well the indemnities paid by southern legislatures.

3.3 Indexing of Indemnities

The indemnities set by the territorial Legislative Assemblies have kept pace with inflation by using some form of indexing.

The Yukon Legislative Assembly accepted the recommendations of the 2007 Commission that the indemnities be adjusted on April 1 of each year by the average change in the Consumer Price Index for Canada over the previous two calendar years. Section 35 of the *Act* inherited from the NWT specified that there would be annual economic increases to the indemnities based upon the global increase awarded to members of the public service. The 2007 Nunavut Commission recommended that this practice be continued and it was accepted by the Legislative Assembly.

The 2018 NWT report recommended that the Members' indemnities be renewed on April 1 each year, calculated on the current Yellowknife Consumer Price Index or the increase negotiated by the Union of Northern Workers, whichever is less. As a result, the indemnities established in 2007 in all three territories have kept pace with inflation.

The Commission recommends that the present provision in section 35 of the *Act* regarding cost of living increases to the rates of pay of employees referred to in paragraph 55(5)(a) of the *Public Service Act* be continued for the indemnities of Members.

3.4 Analysis of Members' Compensation

All Members are paid a basic indemnity that is equivalent to a public service salary compensation. An additional indemnity is paid to the Premier, Ministers, Speaker and the chairpersons of the standing and special committees of the Legislative Assembly. All Members are also paid a number of different allowances that are analyzed in the section on Allowances. The constituency allowance was not included in the interjurisdictional survey in Appendix C.

As discussed in that section, the Commission believes that this allowance should be treated as a component of the basic indemnity.

Basic Indemnity

The basic indemnity paid to all Members pursuant to section 25 of the *Act* is currently \$103,323 as well as a \$1,000 tax-free allowance. As can be seen in Appendix C, ordinary member salaries range from a high of \$127,296 in Alberta to a low of \$72,569 in Prince Edward Island. In the Yukon, the salary is \$77,927 while in the NWT it is \$105,513. Nunavut Members are the fifth highest paid in Canada.

However, there is additional compensation paid to ordinary members from Quebec, Yukon, NWT and Nunavut that are tax-free and non-accountable that will be impacted by Bill C-63. These are discussed below in the analysis of constituency allowances.

The comments on consensus government at page 12 of the NWT report, as well as the comments at pages 23 and 24 on the factors applicable to determining a fair level of compensation for Members, are equally applicable to Nunavut. They are attached as Appendix D. Both territories have many similarities such as consensus government, large geographical areas and the highest cost of living in Canada.

The cost of living in Yellowknife is 10% higher than Whitehorse (data sources linked at Appendix F) and helps to explain why NWT members are paid more than members in the Yukon. As noted at pages 4 and 7 of the Yukon Report, there are historical and financial reasons for the Yukon being the lowest in Canada and the gap was too much to reduce in one report. The Commission clearly recognized that further increases in the future would be required to close the gap to reach the average member salary for all jurisdictions of \$101,589.

As held in *RE: Maloney and Tagak Bankruptcy, 2008 NUCJ 7 (CanLII)* the cost of living in Iqaluit is three times more expensive than Yellowknife. Arguably, Nunavut salaries should be the highest in Canada because of the substantially higher cost of living. At the same time, the sitting days and committee work of Members is comparable to other jurisdictions. Information supplied by the Office of the Clerk indicates that the average number of sitting days per calendar year across Canada is approximately 55. Ontario had the highest average at approximately 82, while the Yukon had approximately 54 and the NWT had approximately 41.

Although the Nunavut average is approximately 36, the Assembly sat for 44 days in 2018. The basic indemnity at the time of the 2009 Nunavut Commission Report was \$81,143 and the current indemnity reflects modest cost of living increases since that date.

The Commission believes that the current basic indemnity should remain the same. The Member indemnities reflect salaries in the GN public service that, in turn, take into account the cost of living in Nunavut.

Additional Indemnities

Section 26 of the Act authorizes the payment of an additional indemnity to Ministers, Presiding Officers of the Assembly and the Chairpersons of Committees and Caucuses. It specifies that these persons are to be paid the additional indemnity specified in section 2 of Schedule C of the Act as follows:

Premier:	\$ 95,198
Deputy Premier:	\$ 87,665
Minister:	\$ 80,134
Speaker:	\$ 80,134
Deputy Speaker:	\$ 20,665
Deputy Chairperson of the Committee of the Whole:	\$ 5,421
Chairperson of a Standing or Special Committee:	\$ 4,669
Chairperson of Full Caucus or regular Members' Caucus:	\$ 3,163

As set out in Appendix C, the highest paid Premier is in Nova Scotia at \$112,791 and the second highest is in Quebec at \$100,849. The lowest is in the Yukon at \$59,944. The additional indemnity paid to the Premier of the NWT is \$80,250 while the Premier of Nunavut is paid \$95,198. The additional indemnity for the Speaker varies from a high of \$80,134 in Nunavut and a low of \$29,273 in the Yukon.

The highest additional indemnity for Ministers is in Nunavut at \$80,134 and the second highest is in Quebec at \$71,778. The lowest is in the Yukon at 41,961. A Minister in the NWT is paid \$56,472. These numbers show that the additional indemnities for the Ministers and Speaker in Nunavut are the highest in Canada and third highest for the Premier.

The additional indemnities paid at the time of the 2009 Nunavut Commission were \$83,288 for the Premier, \$70,109 for Ministers and \$70,109 for the Speaker. The reasons behind the 2009 levels is unclear but the Commission recommended no Change. While the Nunavut additional indemnities are among the highest in Canada, it is clear from this comparison that the increases since the last report are modest and reflect cost of living increases. The Commission also recommends no change in the level of the additional indemnity. However, as discussed in section 7 below, we recommend that the responsibility for setting Ministerial salary, benefits and allowances be transferred to the MSB.

4.0 Taxable and Non-Taxable Allowances: Constituency Allowances, Living Allowances, Nunavut Northern Allowance and Household Allowance

4.1 History of the Use of Tax-Free Allowances

In addition to the basic indemnity, three jurisdictions also pay Members a non-accountable, tax-free allowance. It is \$17,304 in Quebec, \$14,984 in the Yukon and in the NWT \$7,484 or \$14,968 depending upon whether one represents a constituency within or outside Yellowknife. The Speaker and Ministers in the NWT also receive a non-accountable entertainment allowance of \$1,500.

Appendix C shows that Nunavut Members received a tax-free allowance of \$1,000 as specified in section 22 of the federal *Nunavut Act*. Ministers also receive a taxable non-accountable entertainment allowance of \$1,500. As explained at page 6 of the 2018 Yukon report, the payment of an expense allowance was authorized by section 39(3) of the *Legislative Assembly Act*. It was “provided to a Member to pay for expenses incidental to the discharge of the Member’s duties in that capacity.” No records or accountability was required for the use of the expense allowance and it was not subject to taxation. The authority to pay this type of allowance came from subsection 81(2) of the federal *Income Tax Act*.

As noted at page 7 in the Yukon Report, these allowances became taxable on January 1, 2019, because of the passage of Bill C-63 by Parliament. To compensate for the taxation of these benefits, the Yukon report presented a grossed-up version of the expense allowance that assigns an additional value to the actual allowance that factors in the tax savings gained from it being non-taxable. The calculation was done using the Fidelity Investments Tax Calculator, which applied 2016 taxation rates for each jurisdiction. When this exercise is carried out, the final figures are \$118,864 for Québec, \$124,537 for the NWT and \$97,404 for the Yukon.

4.2 Constituency Living Allowance in Nunavut

Although it appears that Nunavut Members only receive the \$1,000 tax-free allowance, the Commission learned from its review of the documentation and its research that a type of tax-free allowance has also been provided to all Members through the administration of section 31(1)(a) of the *Act*. That section states:

Constituency allowance and expenses

31. (1) In addition to the allowances and expenses referred to in sections 27 to 30,

(a) where a member engages in constituency work within commuting distance of the member’s place of residence, the member is entitled to be paid a living allowance at the prescribed rate for each day that the member is engaged in constituency work; and

(b) where a member engages in constituency work that is not within commuting distance of the member's place of residence, the member is entitled to be paid

(i) the reasonable cost of the return transportation of the member between the member's place of residence and the place to which the member must travel, and

(ii) a living allowance at the prescribed rate for each day that the member is engaged in constituency work or is absent from his or her place of residence in order to engage in constituency work.

Written claim

(2) A member may claim a living allowance under paragraph (1)(a) or subparagraph (1)(b)(ii) by filing a written statement with the Office of the Clerk listing the dates and locations of the constituency work.

Maximum allowance

(3) A member may claim a living allowance under paragraph (1)(a) or subparagraph (1)(b)(ii) for a cumulative maximum of 90 days in each fiscal year.

Living allowance for this section is defined in Regulation R-006-2003 as being the applicable "Government of Nunavut Duty Travel Expense Rates, as may be amended from time to time" [GNDT per Diem]. The current GNDT per diem is \$169.90 per day.

All Members have been claiming and have been paid the maximum living allowance allowed under section 31(3) of the Act without deduction for income tax. That subsection caps the maximum claim for the living allowance at 90 days under either section 31(1)(a) or section 31(b)(ii). The total amount paid out as at March 31, 2017, was \$304,511 or about \$13,000 per Member. Multiplying the \$169.90 GNDT per diem by the 90 days produces a current figure of \$15,291.00 for a fiscal year.

The Commission is satisfied that the payment of the allowance for constituency work carried out away from the community where the Member resides is a rational objective claim that is consistent with the claims made by and paid to GN employees who are on duty travel. The Member is away from home and is incurring expenses for meals and incidentals. This claim is for reimbursement of expenses incurred that accompany the claim for travel expenses. The Member's travel expenses will prove that he or she was in the community on the days that are claimed for the living allowance. In other words the allowance is accountable unlike the allowances paid in the NWT or Yukon.

However, claims paid under section 31(1)(a) are a peculiar allowance. The claim is paid out at the same rate as the GNDT per diem, but the Member does not travel. The allowance is not for reimbursement of expenses for constituency work because no receipts are required. It should be noted that Members who actually incur expenses for constituency work may claim under section 31(4) on the production of receipts.

Finally, it is not treated as part of the basic indemnity although it has elements or indicia that are similar.

The Commission believes that the allowance was treated by the Clerk's Office as if it was part of the Member's basic indemnity. It was paid as if it was part of the constituency work and Members were required to file a written statement listing the dates and locations of the constituency work. However, unlike the basic indemnity there was no income tax deducted and it appears that the Canada Revenue Agency (CRA) treated it as expenses incurred in the course of employment.

In summary, the allowance has elements of a GNDT per diem, an allowance for expenses and a basic indemnity. The Commission feels these payments are very similar to the NWT and Yukon tax-free allowances and would likely be construed as such by the CRA as currently administered. As a result they became taxable on January 1, 2019.

The Legislative Assembly has two options. It can make the allowance accountable by requiring Members to provide receipts. This would require definitions of "eligible constituency expenses" and "legitimate constituency work," as well as a system for review and approval of the claims.

The second option is to make it clear that it is a component of the basic indemnity of a Member. This is how it was treated by the Clerk's Office when Members were required to provide a signed statement that the allowance was used for constituency work. If the Legislative Assembly chooses the second option it will have to take into account the impact of the taxation and possibly increase or "gross up" the allowances as noted in the Yukon report. The grossed up value of this allowance when added to the basic indemnity results in total compensation that is approximately the same as the NWT. The Commission recommends that the current constituency allowance paid under subsection 31(1)(a) of the *Legislative Assembly and Executive Council Act* (the *Act*) should be uncoupled from the GN duty travel (GNDT) per diems and should no longer be referred to as an allowance. It should be treated as part of the basic indemnity with income tax deducted. It has been paid to Members as part of their constituency work which combined with committee work is a normal part a Member's responsibility. It should be referred to as a constituency work benefit and rolled into the basic indemnity.

4.3 Nunavut Northern Allowance

Section 29 of the *Act* specifies that every Member shall be paid a Nunavut Northern Allowance as set out in Schedule C of the *Act*. Section 4 of that Schedule specifies that the allowance payable is that which is set out in Article 39 of the Collective Agreement between the Nunavut Employees Union and the Minister Responsible for the *Public Service Act*. The Commission recommends no change to this allowance.

4.4 Household Allowance

All Members who own their own home or pay the full unsubsidized rental cost of a housing unit are entitled to a payment of \$400 per month pursuant to MSB ROD No. #04-108. The Commission recommends no change to this allowance. Government of Nunavut public servants are also entitled to claim this allowance.

5.0 Retiring Allowance

In December 2015, the MSB discussed removing the FTA option offered to retiring Members under the SRAA. Members of the Legislative Assembly of Nunavut are automatically enrolled in the *Retiring Allowances Act* (RAA), a pension plan which is registered with CRA and, therefore, subject to the limits imposed under the *Income Tax Act* (ITA). Members are offered a once-in-a-lifetime option to enroll in the SRAA which, not being a registered pension plan, is not subject to any ITA restrictions. These plans were modeled after the corresponding plans provided to the Members of the NWT Legislative Assembly.

In the 1990s, there was a lot of public attention brought to the pensions being provided to the Members of the Legislative Assemblies across the country. Attached as Appendix E is an interjurisdictional comparison of SRAAs across Canada. The NWT Legislative Assembly decided to close their SRAA to new members in 1996. With the creation of Nunavut, Members of the Legislative Assembly of Nunavut entered into their own RAA.

After the NWT Legislative Assembly reopened their SRAA to new members in 2002, the Legislative Assembly of Nunavut started their own SRAA.

While the Nunavut SRAA is modelled after the NWT SRAA, there are some differences in the two acts. For example, the Nunavut SRAA provides a 3% benefit accrual, while the NWT SRAA provides 2%. This translates to a 50% larger benefit being paid to a Nunavut MLA compared to a NWT MLA if the Members' service and remuneration is equal.

In the NWT SRAA, when a member terminates, their entitlement must be received as a lifetime pension. They have the option to begin a pension immediately, or defer pension commencement to a later date. In both of these cases, a portion of the payments will continue to a surviving spouse, should the member have one at death.

In the Nunavut SRAA, the member is offered these same lifetime pension options. In addition, a Member may elect to receive their SRAA entitlement at an accelerated rate, meaning the full value of their entitlement is paid over a period of 5, 10 or 15 years. This arrangement is referred to as an FTA. The NWT SRAA does not provide any option to receive the pension at any rate faster than a lifetime pension. As of April 1, 2014, 20 active Members and 19 retired Members participated in the SRAA. These numbers are similar to the number of Members participating in the RAA. As of April 1,

2014 there were 21 active members and 18 retired members. The Nunavut SRAA offers more options to its members than the NWT SRAA. NWT members receive a lifetime pension (deferred or otherwise). Nunavut Members have these options, plus the option of receiving their entitlement at an accelerated rate. It is interesting to note that 11 of the 19 retirees have chosen a lifetime pension, while the remaining 8 have chosen an accelerated payout. Three chose 5 years, 4 chose 10 years, and one chose 15 years. It is clear that most Members have chosen to enrol in the SRAA. Additionally, while the majority of retirees have chosen a lifetime pension, the other options have also been exercised to some degree.

While more than half of the retirees treat the SRAA as a lifetime pension, others have seen the value in an accelerated payout. Those who chose the quickest of 5 years were younger than those who chose the longer payouts of 10 or 15 years. While several jurisdictions provide a supplementary plan, the Commission is not aware of the reasons that the Legislative Assembly of Nunavut introduced this plan. It appears that it was a reaction to the NWT Assembly reintroducing such a plan. The arguments in favour of the current legislation are that Members should take responsibility for their own retirement, and should not be forced to take a lifetime pension if they feel they can better manage their own retirement funds. Lump sum payment options, or the FTA, can provide more flexibility to members in how they will ultimately receive income from their pension plans. While these options are not as tax effective for members, they do provide more money to members up front, and can assist members in providing for their families or estates.

By providing a lump sum option, or FTA, members can invest the proceeds themselves and use them to provide future income in the amount and manner that best suits them. Lump sum payment options, or FTA, can provide more flexibility to members in how they will ultimately receive income from their pension plans. While these options are not as tax effective for members, they do provide more money to members up front, and can assist members in providing for their families or estates. By providing a lump sum option, or a FTA, members can invest the proceeds themselves and use them to provide future income in the amount and manner that best suits them. Finally, while a lifetime pension does provide spousal protection, if a member dies shortly after retirement, the value of the survivor or dependent pension will likely not be as significant as a lump sum at retirement, especially if the member has no spouse. So if a member is concerned with providing for their family or estate, a lump sum or FTA would be a more attractive option. It should be noted that in order to receive a lump sum or FTA, a spousal waiver would likely have to be signed by the spouse acknowledging that they understand that they are signing away the guaranteed lifetime pension. While this may be a legally binding document, there may be some cultural aspects that may influence the spouse's decision to sign.

The more paternalistic arguments against the current legislation permitting the use of an FTA is that it is no secret that some Members have a difficult time transitioning into the private sector after serving in public office. While a Member may become accustomed to the lifestyle afforded to them by their compensation during their term(s), they may not be able to find similar employment for some time afterwards. Some may view the FTA as bridge income until they can secure their next employment, even if it means less income in retirement.

In addition to the benefit of providing lifetime income, many organizations and pension plan sponsors believe that there should be some restriction on a Member's ability to take a lump sum to protect the member from themselves. Again, the underlying belief is that the purpose of a pension plan is to provide retirement income. By allowing Members to receive their entitlement as a lump sum, especially in the case of the SRAA when benefits are not locked in, Members can use the funds for any purpose. This can lead to little or no retirement income from the plans when the Members are older, which could lead to lower standards of living, poverty, and reliance on government programs for income.

Even when a Member intends to use a lump sum or FTA for retirement income, there is potential for a negative investment experience to adversely affect the Member's ability to do so. Providing a lifetime pension leaves the investment of assets to investment experts, and not to the Member. Further, if the RAA or SRAA suffer negative investment experience, the Legislative Assembly is required to increase funding to make the plans whole. Members don't have this same guarantee with their personal investments. Finally, the lifetime pension option automatically includes a survivor benefit for a lifetime spousal pension upon the death of the member. This means that if the Member were to die before his or her spouse, a reduced pension (two-thirds) would continue for the spouse's lifetime, along with an additional amount to any remaining dependent children as long as they remain dependent.

In contemplating whether to suggest a change to the current payment options from the RAA and or SRAA, it is important to revisit the primary purpose of the plans. That is, are the plans a tool to guarantee a lifetime of income after service, or should they simply be a source of additional compensation to members?

The Commission believes that there is no need for a further transitional allowance, given that such a benefit is already available to Members when they are no longer Members. The Commission expects that there may be a negative reaction from some Members with having their freedom of choice removed. On the other hand, the Commission believes that the public will respond positively to the decision by the encouraging members to be responsible with their tax-funded pension monies. On balance the Commission recommends that section 16 of the SRAA be repealed to remove the FTA option.

The Commission also recommends that the 60 day time limit set out in section 7 of the SRAA to make an election to participate in the pension plan should be repealed. The learning curve for new members is steep and many need time to absorb all the information they receive as they begin their duties. Members need some time to reflect and obtain advice on whether to participate in the SRAA and there is no clear rationale for forcing them to make a decision so quickly.

6.0 Transitional Allowances

Section 33 of the *Act* specifies that a member shall be paid a transitional allowance if he or she is not elected or does not continue as a member. The amount of the allowance is calculated as an amount equal to the salary payable to the Member for six weeks of each year served at the basic salary plus six weeks of each year served at the additional salary of a Minister, Speaker or Chairperson of a Committee or Caucus, if applicable. The Commission believes that the current formula for calculating the transitional allowance is satisfactory and recommends it remain the same. The Commission adopts the comments made at page 16 of the NWT report about the need for Members to educate themselves, during their term in office, on the various financial planning options once they cease to be a Member.

The MSB currently encourages and facilitates Members to meet with the pension actuaries prior to leaving the Assembly. However, the Commission has been advised that these types of advisors may not have been able to advise on the practical positives and negatives of how to receive the pension income. In addition to encouraging Members to seek out financial planning assistance and access to GN retirement courses or courses in southern Canada, the MSB should actively organize its own courses from time to time and strongly encourage Members to attend. The Commission is aware that, despite the payment of the current transitional allowance, some Members are not prepared for life after politics, particularly if they are defeated in an election. All Members, particularly those Members contemplating retirement, should be encouraged to develop an exit strategy that would cover this information along with any other relevant information that will support the Members in their move from public to private life.

7.0 Allowances, Expenses and Benefits Paid to Members of the Executive Council under Subsection 33.1(2) of the *Act*

Subsection 33.1(2) of the *Act* authorizes the Executive Council (Cabinet) to:

“... establish policies for the payment and recovery of allowances, reimbursement of expenses and provision of benefits to members of the Executive Council that are in addition to those provided for in sections 25 to 33.”

Acting under the authority of this subsection, Cabinet has produced a *Ministerial Procedures Manual* (MPM). Currently, the MPM is administered through the Office of the Premier and may be amended from time to time at the discretion of the Cabinet. It has never been tabled in the House and is not subject to review by the MSB.

Section 2 of the MPM sets out the rules for Ministerial travel allowances that are discussed below at section 13. Section 4 of the MPM sets out the rules for the payment of additional salary and sections 5 and 6 authorizes Ministers to claim and be paid housing allowances and reimbursement for the cost of temporary housing in Iqaluit. The Commission makes no recommendations on the content of the allowances, expenses and benefits paid to Ministers under sections 4, 5 and 6 of the MPM.

However, as set out below in section 13, the Commission is recommending changes in the travel allowances for Ministers and Members that would, if implemented, result in the repeal of section 30 of the Act and the transfer of the administration of travel benefits currently covered in section 2 of the MPM from the Premier's Office to the MSB.

The Commission is aware that there were reports in the news media last year about disagreement in Cabinet on the interpretation of sections 5 and 6 of the MPM. If the Commission's recommendation on the change in the administration of the travel allowances contained in section 2 is accepted, it makes sense to also transfer to the MSB the administration of sections 4, 5 and 6 of the MPM to avoid the problems reported in the news media, as well. A new MSB structure would also assure the public that Ministerial benefits are reviewed by Members because the MSB always reports to the Full Caucus. In Full Caucus, all 22 MLAs are viewed as equals. The Speaker appears in front of the Regular Members' Caucus to present the Assembly's business plan, main and capital estimates. The Speaker also appears in Committee of the Whole during sessions of the Assembly to defend the business plan and estimates. Since the review is conducted in public, the news media and public should be satisfied that the process is transparent and that all Members are being held accountable for their travel and benefits.

The 17th NWT Assembly took this step and transferred the responsibility for their equivalent to sections 2, 4, 5 and 6. The NWT Assembly recognized that the full transfer of responsibility to the MSB for Ministerial pay, accommodation allowances and home travel created an imbalance between the input of Cabinet and Members. The previous NWT legislation was identical to the current wording of subsection 38(1) of the Act. That section specifies that the MSB is composed of one Minister nominated by the Cabinet, the Speaker and three members other than the Deputy Speaker nominated by the Members. To rectify this imbalance, the NWT legislation was changed to specify that the MSB is chaired by the Speaker and includes two Ministers and two Regular Members. The Commission recommends that responsibility for the administration of sections 4, 5 and 6 of the MPM be transferred from the Office of the Premier to the MSB. While the Commission did not identify any problems with the current MSB structure, the Assembly may wish to consider adopting the same structure as the NWT

by amending section 38 (1) of the *Act* to change the composition of the MSB from its current form to two Ministers and two Members with the Speaker as Chairperson. This configuration did appeal to the Commission because it provides a balance between the Cabinet and Regular Members on the MSB.

8.0 Practical and Cost-Effective Ways to Support the work of Members who are Expectant Mothers or who are Raising Young Children in Respect to Such Areas as Child Care and Parental Leave

Nunavut has 22 constituencies. There are 4 constituencies located in Iqaluit with the remaining 18 spread over 3 regions and 3 time zones. Seven constituencies have two communities and one has three. The constituencies that include more than one community are spread over large geographic areas.

All communities rely on air travel for their contact with the outside world for much of the year. Members representing constituencies outside of Iqaluit face additional challenges because of the isolation of the communities in their ridings.

Members are required to travel to Iqaluit when the Assembly is sitting and to attend committee and caucus meetings. Collectively, these job requirements mean that a Member may be away from home for about 16 weeks per year. A long session of the Assembly can result in a Member being away from home for as long as four weeks at a time.

These realities make the work of Members from the more remote constituencies challenging and stressful on family life. To ease the toll on family life, section 30 authorizes the Member and spouse to take additional trips during a session. The longer the session, the more trips the Member may take.

Today, there are more Members of Parliament, as well as provincial and territorial legislatures, who have young children. This includes some Members of the Legislative Assembly of Nunavut. These Members face additional stresses in arranging for child care while they attend to their duties.

The federal government has committed to working with Parliament to provide support for Members by making the operations of Parliament more family-friendly. Attached as Appendix G is a link to a copy of the Eleventh Report of the House of Commons Standing Committee on Procedure and House Affairs on this subject.

The Eleventh Report of the House of Commons Standing Committee on Procedure and House Affairs noted at page 6 that a childcare facility within close proximity of the House of Commons had been made available to Parliamentarians since 1982. At page 7 of the Report, the Committee recommended that the House Administration proceed with providing flexible child care services to be made available during hours when

needed by Members and to attend to Members' child care needs at the Members' own personal hourly cost.

The Commission endorses the Assembly taking a similar approach, where possible, to make the work of Members more family-friendly. The GN policy on child care is that an employee can claim, with backup receipts, up to \$45 per day when on duty travel. The Commission recommends that the Assembly adopt a similar policy. In addition, the Assembly may consider providing enhanced temporary accommodation and laundry services and taking a liberal interpretation of the use of the constituency work benefit.

For example, an MLA with young, pre-school children is elected to represent a multi-community constituency like Quttiktuq, South Baffin, or Netsilik, but chooses to reside primarily in the capital. The MSB could rule that an MLA in this situation would be eligible to claim such expenses when travelling to the constituency for "constituency work," as opposed to "duty travel" when attending, for example, a Caucus retreat outside of the capital. The Commission recommends that the development and implementation of these types of family-friendly policies be carried out by MSB and that care be taken that the policies do not exceed the benefits provided by the GN or the private sector.

9.0 The Impact on Members' Remuneration of Recent Changes to Federal Income Tax Legislation that were provided for in Bill C-63. Which Received Royal Assent on December 14, 2017

This issue was addressed in section 4.0 above.

10.0 The Adequacy of Public Reporting and Disclosure of Members' Indemnities, Allowances, Expenses and Benefits

At page 18 of the NWT Report, the Commission recommended that more detailed information about Members' expenses be published on the government website, as a separate document, by June 30 of the following fiscal year.

It noted:

"There are clear examples of more accessible published information available at the Federal, Provincial and Territorial levels. Similar expense information is available on the Parliamentary website, that clearly lists expenditures (under the "Expenditure Report" tab/link) of the member. This government has recently started to publish detailed travel expenses for Cabinet Members. It was suggested the same level of openness and accountability should be provided by all MLAs. Providing increased transparency and access to information about salaries, detailed expenses and entitlements is appropriate and aligns with the 18th Assembly's commitment to accountability and transparency. Rather than

requiring the public to sort through larger annual reports, the information should be easily identified and available on the Legislative Assembly website. Having clear information about salaries, benefits, allowances and expenses paid to MLAs allows the public to be better informed.”

The Commission accepts that the same approach should be taken in Nunavut. The changes recommended about constituency allowances and the transfer of responsibility for the MPM are consistent with more transparency because it allows the public to see the full level of compensation paid to Members.

11.0 The Advisability of Replacing the Constituency Living Allowance Currently Paid to Members under Subsection 31(3) of the Act with a Higher Base Rate of Remuneration

This issue is addressed in section 4.0 above.

12.0 The Appropriateness of Paying Living Allowances to Members Resident in the Capital

Section 28 of the *Act* authorizes the payment of a living allowance to Members who are required to travel from their residence to Iqaluit to attend sessions of the Legislative Assembly, meetings of a standing or special committee, meetings of the MSB and to attend caucus meetings.

Section 28 differentiates between Members who are within commuting distance of Iqaluit [s.28 (1)] and those who are not [s.28 (3)]. Both are entitled to claim the living allowance but those who are not within commuting distance are also entitled to be paid for their travel expenses similar to the claim for constituency work. Claims under section 28(3) are rational objective claims for reimbursement for meals and incidentals that result from the requirement to travel in the same way that GN employees are required to travel as part of their duties.

However, claims under section 28(1) are not for reimbursement of expenses because of a requirement to travel. The Member resides in Iqaluit and lives in his or her residence and eats meals in their residence.

In practical terms, the Members representing the Iqaluit constituencies and those Ministers and Regular Members who have established a residence in Iqaluit are the only Members who might be eligible to claim under s. 28(1). The Commission believes that payments under section 28(1) are in the same category as constituency payments under section 31(1)(a) and are inconsistent with the payment of the living allowance. The Commission recommends that section 28(1) be removed from the Act.

13.0 The Advisability of Replacing the Statutorily-Prescribed Travel Entitlements under Section 30 of the *Act* with a Management and Services Board-administered System of Travel Points that is Analogous to that which is Provided to Members of Parliament under the authority of the Board of Internal Economy of the House of Commons.

Section 2 of the *Ministerial Procedures Manual* specifies that Ministers are entitled to claim for 26 economy class return air trips between the Minister's home community and Iqaluit for constituency work as long as there are sufficient funds available in the budget. Ministers who reside in Iqaluit are not entitled to claim for this benefit and there are currently five Ministers who are eligible to claim it. Section 30 of the *Act* provides similar benefits for all Members but they are far less generous and much more difficult to administer. The Members who do not reside in Iqaluit may claim up to 3 trips per session.

Currently there are 18 Members (including Ministers) who are entitled to claim this benefit. The Ministerial travel entitlement is per calendar year while the regular member benefit is per session and some sessions run for two years.

Unlike the Ministerial policy, the Member entitlement contained in the *Act* lacks flexibility to make adjustments that are within the Assembly travel budget. For example allowing some of the trips to be used for another "family member" within the meaning of *Legislative Assembly Retiring Allowances Act*. Subsection 30 (3) only permits a spouse or a designated substitute.

In summary, 130 round trip travel entitlements are available to Ministers (26x5) and 54 available to Members (18x3). Ministers can access both the 26 trips of a Minister and the 3 trips per session available to a Member for a total of 29.

In the course of a 2 year session, Ministers whose residence is not in Iqaluit would have access to 52 trips (26x2) plus the 3 trip Member entitlement for a total of 55. On the other hand regular members would only access 3 trips.

Although the Clerk's office does permit regular Members to "bank" unused trips during a session, Ministers enjoy a greater benefit because they are able to utilize additional "home travel" entitlements that are authorized by the Premier under subsection 33.1(2) of the *Act*. While subsection 33.1(1) authorizes the MSB to adopt similar policies for Regular Members, it has chosen not to take this step. The Commission assumes this is because of budgetary considerations that must be initiated by Cabinet and possible conflicts with subsection 30(1). Although the Commission recognizes that Ministers spend more time away from their home communities and need more travel entitlements, it believes that current system is a little unfair to regular members.

They should receive a minimum of 3 additional trips per session and this should be done in a cost-neutral manner by reducing the number of Ministerial travel entitlements available per year or removing the Regular Member entitlements from Ministers who already have access to Ministerial travel entitlements or both.

The Commission also believes that it is important to have the entire travel budget under one roof to provide maximum flexibility. That would permit the MSB to create new policies to set up a system of travel points that is similar to the system administered by the Board of Internal Economy for Members of Parliament.

To accomplish this, section 30 should be repealed and be replaced with new policies that would specify the following:

(a) Establishing a maximum number of return trips between Iqaluit and the Member's community of residence per fiscal and/or calendar year and/or seasonal sitting within the meaning of Rule 3(1) of the *Rules of the Legislative Assembly of Nunavut*;

(b) Establishing a maximum number of return trips between Iqaluit and the Member's community of residence that can be "banked" during the life of an Assembly;

(c) Establishing attendance requirements on the part of Members to be deemed eligible for the travel benefit;

(d) Defining "family member" to mean immediate relatives who have been designated as dependants and/or spouses within the meaning of *Legislative Assembly Retiring Allowances Act*; and

(e) Fostering a "family-friendly" institution by providing enhanced travel entitlements to Members with infants or young children who have not been enrolled in full-time schooling.

Appendix A:
Commission Terms of Reference and
Public Invitation for Submissions



Terms of Reference: Independent Commission to Review Members' Indemnities, Allowances, Expenses and Benefits

Statutory Purpose

Section 37 of the *Legislative Assembly and Executive Council Act* provides that:

Appointment of commission

37. (1) The Speaker, after consultation with the Management and Services Board, may establish an independent commission to review and make recommendations to the Speaker regarding the indemnities, allowances, expenses and benefits to be paid to the members of the Legislative Assembly and other related matters.

Reports of commission

(2) The Speaker shall cause any recommendations and reports made by a commission established under subsection (1) to be laid before the Legislative Assembly as soon as reasonably practicable and in any case before the end of the session in which they were received.

Membership of commission

(3) The commission shall be composed of not more than five members, chosen by the Speaker on the recommendation of the Management and Services Board.

Members not eligible

(4) Members [of the Legislative Assembly] shall not serve as members of the commission.

Principles

In making its recommendations, the commission shall be guided by the following:

- Individuals should not seek election to public office for purely financial gain;
- The position of legislator is unique. Remuneration should reflect the significant responsibilities and personal sacrifices that accompany elected public office, as well as the inherent insecurity of holding elected public office; and
- The system of remuneration for elected office-holders should be publicly transparent and not unduly complex to administer.

Timeline

The final report of the commission is to be submitted to the Speaker no later than March 31, 2019. Pursuant to section 37 of the *Legislative Assembly and Executive Council Act*, the Speaker shall table the report in the “Legislative Assembly as soon as reasonably practicable.”

Authorities

In fulfilling its statutory mandate under section 37 of the *Legislative Assembly and Executive Council Act*, the commission shall have access to the following:

- Current consolidations of the *Legislative Assembly and Executive Council Act*, the *Legislative Assembly Retiring Allowances Act* and the *Supplementary Retiring Allowances Act*;
- Relevant policies, briefing materials, correspondence, interpretive bulletins and other materials prepared by, or on behalf of, the Management and Services Board in relation to Members’ indemnities, allowances, expenses and benefits;
- Final report of the 2009 Independent Commission to Review Members’ Indemnities, Allowances, Expenses and Benefits; and
- Analogous reports prepared within the past five (5) years by other Canadian legislatures.

Scope of Work

In fulfilling its statutory mandate under section 37 of the *Legislative Assembly and Executive Council Act*, the commission shall consider and provide recommendations concerning the following:

- Indemnities paid to Members of the Legislative Assembly and office-holders under Schedule C of the *Legislative Assembly and Executive Council Act*;
- Taxable and Non-Taxable Allowances, including Constituency Allowances, Living Allowances, Nunavut Northern Allowance and Housing Allowance;
- Retiring Allowances;
- Transitional Allowances;
- Allowances, expenses and benefits paid to members of the Executive Council under subsection 33.1(2) of the *Legislative Assembly and Executive Council Act*; and
- Other remuneration and entitlements for Members.

The commission shall also consider and make recommendations concerning the following specific matters:

- Practical and cost-effective ways to support the work of Members who are expectant mothers or who are raising young children in respect to such areas as child care and parental leave;
- The impact on Members' remuneration of recent changes to federal income tax legislation that were provided for in Bill C-63, which received Royal Assent on December 14, 2017;
- The adequacy of public reporting and disclosure of Members' indemnities, allowances, expenses and benefits;
- The advisability of replacing the constituency living allowance currently paid to Members under subsection 31(3) of the *Legislative Assembly and Executive Council Act* with a higher base rate of remuneration;
- The appropriateness of paying living allowances to Members resident in the capital; and
- The advisability of replacing the statutorily-prescribed travel entitlements under section 30 of the *Legislative Assembly and Executive Council Act* with a Management and Services Board-administered system of travel points that is analogous to that which is provided to Members of Parliament under the authority of the Board of Internal Economy of the House of Commons.

The commission's mandate is to focus on remuneration and benefits paid to Members of the Legislative Assembly. The Management and Services Board of the 4th Legislative Assembly completed a comprehensive review of constituency work expenses prescribed in Schedule B of the *Legislative Assembly and Executive Council*. Consequently, the commission will **not** consider:

- Constituency work expenses prescribed in Schedule B of the *Legislative Assembly and Executive Council*;
- Remuneration and benefits paid to Members' Constituency Assistants; or
- Constituency Office Operations and Administration.

Administrative Matters

The Office of the Clerk of the Legislative Assembly shall provide all necessary administrative services to the commission, including the engagement of staff and advisors. In undertaking its work, the commission shall make reasonable efforts to invite formal written submissions from Nunavut residents. The commission may, at its sole discretion, invite submitters to appear before the commission.

The Speaker, on the recommendation of the Management and Services Board, may approve the payment of honoraria and reimbursement of reasonable expenses for commission members, in accordance with chapter 810 of the *Financial Administration Manual*.



Invitation for Submissions

Independent Commission to Review Members' Indemnities, Allowances, Expenses and Benefits

The Legislative Assembly of Nunavut has established an Independent Commission to Review Members' Indemnities, Allowances, Expenses and Benefits. The Commission's mandate is provided for in section 37 of the *Legislative Assembly and Executive Council Act*.

One of the Commission's mandates is to support a family-friendly institution by providing recommendations concerning practical and cost-effective ways to support the work of Members of the Legislative Assembly who are expectant mothers or who are raising young children in respect to such areas as child care and parental leave

The Independent Commission invites Nunavut residents and organizations to provide written submissions.

Submissions will be accepted until 5:00pm (EST) on **January 25, 2019**. Submissions should be directed to:

**Chairperson, Independent Commission to Review
Members' Indemnities, Allowances, Expenses and Benefits
c/o Office of the Legislative Assembly of Nunavut
P.O. Box 1200, Iqaluit, NU, X0A 0H0
Tel: (867) 975-5000 Fax: (867) 975-5191
Email: submissions@assembly.nu.ca**

Appendix B:

**Commission Correspondence and
List of Contacted Members and Former Members**

October 4, 2018

All Members of the Legislative Assembly of Nunavut

Dear Members:

I am writing to you in my capacity as the Chairperson of the Independent Commission to Review Members' Indemnities, Allowances, Expenses and Benefits to invite you to provide your observations, concerns and recommendations to the Commission as we work to prepare our report to the Legislative Assembly. For your ease of reference, I am attaching a copy of the Commission's approved *Terms of Reference*, and I draw your attention to our Scope of Work, which is detailed on page 3 of the document. My colleagues and I welcome your input concerning these specific areas.

I also wish to advise you that the Commission anticipates contacting a number of Members by telephone or other means over the coming months to conduct focused interviews on the subject of developing recommendations for practical and cost-effective ways to support the work of Members who are expectant mothers or who are raising young children in respect to such areas as child care and parental leave. I thank you in advance for your assistance in this process.

I ask that Members provide their submissions on or before **Friday, January 25, 2019**. Submissions may be provided to the Commission through the Office of the Clerk of the Legislative Assembly.

Yours sincerely,

ORIGINAL SIGNED BY

The Honourable Mr. Justice Earl Johnson
Chairperson

Members Contacted:

MLA Pat Angnakak
MLA Jeannie Ehloak
MLA George Hickes
MLA John Main
MLA Allan Rumbolt
MLA Joe Savikataaq
Former MLA Ron Elliott

Appendix C:
Interjurisdictional Comparison of Members' Remuneration

Appendix D:

Excerpts from the 2018 Northwest Territories Review of Members' Compensation and Benefits Report

“... The Northwest Territories is one of only two jurisdictions in Canada with a consensus system of government instead of one based on party politics. In this system, all Members of the Legislative Assembly are elected as independents. Shortly after the election, all Members meet as a Caucus to set priorities for that Assembly. The Caucus remains active throughout their term as the forum where all Members meet as equals. Members who are not in Cabinet are referred to as Regular Members. They become the “unofficial opposition.” They are responsible, through questioning in the House and the work of standing committees, for holding the government accountable and responsive to the people of the Northwest Territories.

Compared to the party system, there is much more communication between Regular Members and Cabinet. All legislation, major policies, and proposed budgets pass through the Regular Members’ standing committees before coming to the House.

This gives Members a chance to make changes and put their “fingerprints” on initiatives before they’re made public, unlike in other systems. This influence comes at a price for Regular Members: they often get advance notice of announcements and issues before the public does but can’t tell their constituents. The 11 Regular Members also hold the balance of power, as only seven Cabinet Ministers are elected. A Cabinet that ignores the direction favoured by the majority soon runs into trouble. Even so, consensus government does not mean that unanimous agreement is necessary for decisions to be made, motions passed, and legislation enacted. A simple majority carries the vote.

Once elected, the Members hold a territorial leadership meeting at the Legislative Assembly in Yellowknife. The first order of business is the election of the Speaker by secret ballot. This reflects the importance of the Speaker, who presides over the Assembly as a whole and enforces the rules. The next task is electing the Premier. Members have many discussions behind the scenes as candidates measure their support leading up to the election, which has been held in public since the 12th Assembly. Candidates are nominated and given 20 minutes to present their platforms. Then the floor is opened for a limited number of questions from each Member, and a secret ballot vote is held. Sometimes it takes several ballots before any candidate receives more than 50% of the votes.

The election of six Cabinet ministers comes next. In order to have fair and equitable representation, Ministers are generally selected from across the territory – two from the north, two from the south and two from the central part of the territory. There is also discussion about the structure of cabinet, such as having representatives who are female or Indigenous. Again, candidates are nominated and outline their platforms in public before a secret ballot vote takes place.

After meeting with his or her team of Ministers, the Premier assigns them to head up one or more departments. Some Members choose not to accept nominations to Cabinet because they prefer to be free to ask tough questions of ministers in the House and before standing committees.

They feel they can better represent their constituents as Regular Members. It rarely happens, but the Premier and/or Cabinet ministers can be removed by passing a motion of non-confidence in the House.

Motions of censure are a less extreme measure that can put a Premier or minister under considerable public pressure. Compensation for MLAs needs to be generous enough to attract competent, capable and committed individuals from all sectors, yet not so generous to be the primary motivator for prospective members. To attract the best people to seek office is to appeal to those motivated by a desire to serve. For some, pursuing politics as a career will involve a financial sacrifice; MLAs salaries cannot compete with those offered in the private sector. However, compensation should not deter desirable candidates from serving due to unreasonable monetary sacrifices. Compensation should also be commensurate with the duties, responsibilities and importance of the role of an MLA.

This creates a unique position of fairly compensating an MLA and the challenges associated with attaching a salary to that position.

The underlying motivation for running for office must be to serve and improve the well-being of people of the Northwest Territories. Collectively, MLAs represent and advocate for the will of the people. They set public policy and spending of public funds responsibly.

They can be voted out of office, if the public does not feel their performance has met the anticipated mandate. The opportunity to run for office is open to all NWT residents 19 and over. The concept that members' remuneration be decided by an independent (arm's length) process is formally recognized in the Legislative Assembly and Executive Council Act (s.35.1).

One of the guiding principles found in the Terms of Reference for the Commission is that "the system of remuneration must be transparent, open and provide an easy to understand system of remuneration to the members of the Legislative Assembly and members of the Executive Council while providing a high degree of accountability to the people they serve".

This left the Commission to answer the question, "What is the fair way for MLAs to be paid?"

The Commission members appreciate the demands and the intensity of the job of an MLA. The recommendation for the Member of the Legislative Assembly salary was reached after considering information from the MLAs, the public and a review of MLA salaries across the country.

They factored in the state of the economy when discussing the adjustment to members' wages. They assessed how government employees, as union members, are paid with an assigned yearly step increase. MLAs do not have steps built into their salaries. They also noted that current MLA salaries are at a level above the average income level in the NWT. And, they have the fourth highest salary of the provinces and territories in Canada (See Appendix C, Members' Salary Comparisons – 2017).

It is important that political salaries are adjusted using an external measure that is not subject to undue political interference. For example, tying political salary increases to government labour contracts salary increases can create a conflict of interest for MLAs in approving labour agreements. Recommending that MLAs receive the CPI or union increase, whichever is less, ensures the MLA never receives a greater increase in compensation than that of the largest employer in the NWT."

Appendix E:

**Interjurisdictional Comparison of
Supplementary Retiring Allowance Plans**

Canadian MLA Plan Comparison

Jurisdiction	Plan Type – Date Closed	Pension Formula		Combined Maximum	NRD	ERD	Early Retirement Reduction	Member Contributions	Vesting Rule	Portability Options
		Registered	Supplemental							
B.C.	DB	3.5% limited		70% HAE3	65	60	6% per year	11%	6 years	Locked-in CV under age 60
Alberta	DC – 1993									
Saskatchewan	DC – 2002									
Manitoba	DB & DC	2.0% limited	2.0% unlimited**	70% HAE5	60	55	3% per year	7% (increasing to 9%)	1 year	Yes
Ontario	DC – 1996									
Quebec	DB	1.75% limited	4.0% unlimited**	100% FE	60	50	3% per year	9% limited	Immediate	Locked-in CV under age 60
New Brunswick	TB – 2014	1.4%/2.0% limited*			65		6% from 55–60; 3% from 60–65	8.75%/11.95% limited****	2 years	Yes, if <40% of YMPE
P.E.I.	DB	2.0% limited	3.5% limited		62	50	3% per year	9% limited	Registered: Immediate Supplementary: 5 years and >1 Assembly	Registered: CV under age 50
Nova Scotia	DB	2.0% limited	3.5% unlimited	70% HAE3	60***	50	6% from 50–55	10%	2 years	No
Newfoundland	DB	2.0% limited	3.5% unlimited	70% HAE3	55	50	6% per year	9%	5 years and >1 Assembly	CV under age 50
Yukon	DB	2.0% limited	5.0% unlimited**	75% HAE3	55		3% per year	9% limited	6 years	Shortened Life Expectancy
N.W.T.	DB	2.0% limited	2.0% unlimited	75% HAE4	60		3% per year	9% limited	4 years or 1 Assembly	RAA: CV (one-time) SRAA: No
Nunavut	DB	2.0% limited	3.0% unlimited	75% HAE4	60		3% per year	9% limited	4 years or 1 Assembly	RAA: CV SRAA: FTA

*1.4% of earning up to the YMPE and 2.0% of earning in excess of the YMPE, subject to the ITA DB Limit of that year

**The Supplemental benefit is designed such that the aggregate pension is equal to the shown percentage.

*** Earliest of age 60 or age 55 with 80 points

****As of 4/1/2014: Members contribute 7.5% of earnings up to the YPME and 10.7% in excess of the YMPE.

Aon

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Appendix F:
Links to Territorial Bureaus of Statistics

Nunavut

<http://www.stats.gov.nu.ca/en/home.aspx>

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Northwest Territories

<https://www.statsnwt.ca/index.html>

-

Yukon

http://www.eco.gov.yk.ca/stats/stats_subject.html

Appendix G:

**Link to Eleventh Report of the House of Commons Standing
Committee on Procedure and House Affairs:**

***Interim Report on Moving Toward a Modern, Efficient, Inclusive and
Family-Friendly Parliament***

<http://www.ourcommons.ca/DocumentViewer/en/42-1/PROC/report-11/>